

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

LOG #: AQ173

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Rule
Title:

LAC 33:III. Chapter 14. Subchapter
B. Federal Transportation
Conformity Rule Amendments

Date Rule
Effective:

Upon Promulgation

SUMMARY

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No costs or savings to state or local governmental units are anticipated as a result of the implementation of this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state or local governmental units will not be affected by this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed amendment to the rule will result in no additional estimated economic costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of this proposed rule will not affect competition and employment in the public and private sectors.

Signature of Agency Head or Designee

Gus Von Bodungen, Asst. Secretary

Typed Name and Title of Agency Head or Designee

Date of Signature

LEGISLATIVE FISCAL OFFICER OR DESIGNEE

Date of Signature

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberations on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The rule establishes policy, criteria, and procedures for demonstrating and assuring conformity of transportation plans, programs, and projects that are developed, funded, or approved by the U. S.

Department of

- 23 Transportation and by Metropolitan Planning Organizations under Title U.S.C. or the Federal Transit Act of state or federal air quality implementation plans developed in accordance with section 110 and Part D of the Clean Air Act.

To be consistent with the federal transportation conformity regulations, LAC 33:III.1431 and LAC 33:III.1441 are being amended. This proposed rule amends the interagency consultation process requirements in accordance with the federal transportation conformity rule that was amended August 15, 1997. In addition, this proposed rule amends the public consultation procedure's requirements.

- B. Summarize the circumstances which require this action. If the action is required by federal regulations, attach a copy of the applicable regulation.

The federal transportation conformity rule has been amended three times. This proposed rule amendment incorporates the changes.

This action is mandated by section 176(c) of the Clean Air Act, as amended (42 U.S.C. 7401 et seq.), and the related requirements of 23 U.S.C. 109(j).

- 40 Federal requirements for transportation conformity are established in CFR part 93, subpart A and in 40 CFR part 51, subpart T (§51.390).

- C. Compliance with Act II of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

The proposed rule is not expected to result in any increase in the expenditure of funds.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) _____ Yes. If yes, attach documentation.

(b) _____ No. If no, provide justification as to why this rule change should be published at this time.

This section is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED.

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 98-99	FY 99-00	FY 00-01
PERSONAL SERVICES	-0-	-0-	-0-
OPERATING EXPENSES	-0-	-0-	-0-
PROFESSIONAL SERVICES	-0-	-0-	-0-
OTHER CHARGES	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-
MAJOR REPAIR & CONSTR.	-0-	-0-	-0-
POSITIONS (#)	-0-	-0-	-0-

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

There is no anticipated significant increase in costs or savings to state agencies resulting from implementation of this proposed rule. The rule will be implemented with existing personnel.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 98-99	FY 99-00	FY 00-01
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
DEDICATED	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-
OTHER (Specify)	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

This section is not applicable.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

Implementation of this proposed rule will result in minimal impact on local governmental units as Metropolitan Planning Organizations in ozone nonattainment areas currently make conformity determinations.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

This section is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS.

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 98-99	FY 99-00	FY 00-01
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
RESTRICTED FUNDS*	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-
LOCAL FUNDS	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-

* Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A". Describe all data, assumptions, and methods used in calculating these increases or decreases.

This section is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

The implementation of this proposed rule will affect Metropolitan Planning Organizations in ozone nonattainment and maintenance areas. The impact will be minimal and it is anticipated that no costs and/or economic benefits will result from rule implementation.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule change to these groups.

No significant impact on receipts and/or income is expected.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

Implementation of this proposed rule will not impact competition and employment in the public and private sectors.

NOTICE OF INTENT

Department of Environmental Quality
Office of Air Quality and Radiation Protection
Air Quality Division

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.1431 and 1441 (Log #AQ173).

This proposed rule establishes policy, criteria, and procedures for demonstrating and assuring conformity of transportation plans, programs, and projects that are developed, funded, or approved by the U.S. Department of Transportation and by Metropolitan Planning Organizations under Title 23 U.S.C. or the Federal Transit Act of state or federal air quality implementation plans developed in accordance with section 110 and part D of the Clean Air Act. To be consistent with the federal transportation conformity regulations, LAC 33:III.1431 and 1441 are being amended. The proposed rule amends the interagency consultation process requirements in accordance with the federal transportation conformity rule that was amended August 15, 1997. In addition, the proposed rule amends the public consultation procedures requirements. The federal transportation conformity rule has been amended three times. This proposed rule incorporates the changes. This action is mandated by section 176(c) of the Clean Air Act, as amended (42 U.S.C. 7401 et seq.), and the related requirements of 23 U.S.C. 109(j). Federal requirements for transportation conformity are established in 40 CFR part 63, subpart A and in 40 CFR 51.390. The basis and rationale for this proposed rule are to comply with the federal transportation conformity requirements for states published on August 15, 1997 in 62 FR 43802-43818.

This proposed rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

A public hearing will be held on June 24, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. This hearing will also be for a revision to the State Implementation Plan (SIP) to incorporate this proposed rule. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ173. Such comments must be received no later than July 1, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. You may contact the Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ173.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen
Assistant Secretary

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 14. Conformity

Subchapter B. Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved Under Title 23 U.S.C. or the Federal Transit Act

§1431. Purpose

The purpose of this regulation is to implement section 176(c) of the Clean Air Act (CAA), as amended (42 U.S.C. 7401 et seq.), the related requirements of 23 U.S.C. 109(j), and regulations under 40 CFR ~~part 51, subpart F~~ Code of Federal Regulations (CFR) part 93, subpart A with respect to the conformity of transportation plans, programs, and projects ~~which~~ that are developed, funded, or approved by the United States Department of Transportation (DOT) and by metropolitan planning organizations (MPOs) or other recipients of funds under title 23 U.S.C. or the Federal Transit Act Laws (49 U.S.C. 1601 et seq.). This regulation sets forth policy, criteria, and procedures for demonstrating and ensuring conformity of such activities to applicable implementation plans developed according to section 110 and part D of the CAA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), amended LR 24:**

§1441. Consultation

A. Pursuant to 40 CFR ~~51.402~~ 93.105 interagency consultation (federal, state, and local) shall be undertaken before making conformity determinations and before adopting applicable State Implementation Plan (SIP) revisions.

* * *

[See Prior Text in B-B.6.c]

- d. ~~DOTD—chief, Engineering Design and Contract Management Division or designee,~~
- e. FHWA—division administrator or designee,
- f. FTA—director, Office of Program Development or designee,
- g. EPA—regional administrator or designee, and
- h. local publicly-owned transit agencies—general manager or designee.

7. ~~Before adoption and approval of conformity analyses prepared for plans, Transportation Improvement Plans (TIPs), and projects, the Metropolitan Planning Organization (MPO) and/or Department of Transportation and Development (DOTD) shall distribute the final draft of the documents (TPs, TIPs, and related materials), before adoption and approval, including supporting technical materials, to the consulting agencies for review and comments. Lead agencies shall respond to significant comments of made by the consulting agencies on TPs, plans, TIPs, projects, or SIPs in writing within 30 working days. These replies~~ Comments and responses to comments shall be distributed to for review by all agencies identified in Subsection B.2 of this Section. All comments and the replies to those comments shall be included with final documents when they are forwarded for review subject to the provisions of LAC 33:III.1441.D. Following resolution of all significant issues, final documents shall be revised accordingly and submitted to the designated lead agency for formal adoption and approval.

* * *

[See Prior Text in B.8-C.1.b]

c. the MPO shall submit a list of exempt projects to agencies specified in Subsection B.2 of this Section to evaluate whether projects otherwise exempted from meeting the requirements of ~~this Subchapter~~ 40 CFR part 93, subpart A (see ~~LAC 33:III.1497 sections 126 and 1498~~ 127) should be treated as nonexempt in cases where potential adverse emissions impacts may exist for any reason. The MPO shall allow 30 days for comments;

d. the MPO and/or DOTD, in cooperation with DEQ, shall make a determination, as required by ~~LAC 33:III.1457.C.140~~ CFR 93.113(c)(1), whether past obstacles to implementation of TCMs ~~which~~ that are behind the schedule established in the applicable implementation plan have been identified and are being overcome and whether state and local agencies with influence over approvals or funding for TCMs are giving highest priority to approval or funding for TCMs. This process shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs or other emission reduction measures;

e. the MPO and/or DOTD, in cooperation with DEQ, shall identify, as required by ~~LAC 33:III.1493.D~~ 40 CFR 93.123(b), projects located at sites in PM₁₀ nonattainment areas ~~which~~ that have vehicle

and roadway emission and dispersion characteristics ~~which~~that are essentially identical to those at sites which have violations verified by monitoring and, therefore, require quantitative PM₁₀ hot-spot analysis; and

f. the MPO shall notify the agencies specified in Subsection B.2 of this Section of transportation plan or TIP revisions; or amendments which merely add or delete exempt projects listed in ~~LAC 33:III.1497~~40 CFR 93.126 or 93.127 and allow a 30-day comment period; ~~and~~

g. DOTD, in consultation with applicable agencies specified in Subsection B.2 of this Section, shall cooperatively choose the appropriate conformity test(s) and methodologies for use in isolated rural nonattainment and maintenance areas, as required by 40 CFR 93.109(g)(2)(iii).

* * *

[See Prior Text in C.2]

a. DEQ, in cooperation with the MPO and DOTD, shall evaluate events ~~which~~that will trigger new conformity determinations in addition to those triggering events established in ~~LAC 33:III.1439~~40 CFR 93.104. DEQ may require a new conformity determination in the event of any unforeseen circumstances; and

* * *

[See Prior Text in C.2.b-C.3]

4. The MPO, in accordance with Subsection B of this Section; and with the cooperation of DOTD and local transportation agencies; and recipients of funds designated under title 23 U.S.C. or the Federal Transit ~~Act~~Laws, shall coordinate and ensure that plans for construction of regionally significant projects ~~which~~that are not FHWA/FTA projects including projects for which alternate locations, design concept and scope, or the no-build option are still being considered, as well as all those by recipients of funds designated under title 23 U.S.C. or the Federal Transit ~~Act~~Laws, are disclosed to the MPO on a regular basis and ensure that any changes to those plans are immediately disclosed. The sponsors of non-FHWA/FTA projects and recipients of funds designated under title 23 U.S.C. or the Federal Transit ~~Act~~Laws shall disclose to the MPO on a regular basis significant projects and their status.

5. The MPO, in accordance with Subsections B and C.4 of this Section, and other recipients of funds designated under title 23 U.S.C. or the Federal Transit ~~Act~~Laws, shall cooperatively assume the location and design concept and scope of projects ~~which~~that are disclosed to the MPO as required by Subsection C.4 of this Section, but whose sponsors have not yet decided these features; in sufficient detail to perform the regional emissions analysis according to the requirements of ~~LAC 33:III.1491~~40 CFR 93.122.

* * *

[See Prior Text in C.6-D.4]

E. Public Consultation Procedures. ~~A~~Consistent with the requirements of 23 CFR 450.316(b), relating to public involvement, affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process ~~which~~that provides opportunity for public review and comment ~~prior to taking formal action on a conformity determination for all transportation plans and TIPs, consistent with the requirements of 23 CFR part 450.~~ This process shall, at a minimum, provide reasonable public access to technical and policy information considered by the agency at the beginning of the public comment period and before taking formal action on conformity determinations for all TPs and TIPs. Any charges imposed for public inspection and copying of conformity-related materials shall be consistent with the fee schedule contained in 49 CFR 7.95. In addition, any such agency must specifically address in writing ~~any~~ public comments claiming that known plans for a regionally significant project ~~which~~that is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. Any such agency shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), amended LR 24:**